



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
DELAWARE STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 83-2

February 3, 1983

SUBJECT: Voluntary Termination Incentive Payments Received by Non-Residents

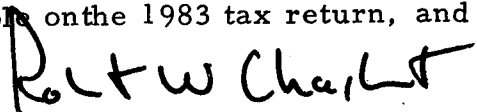
Questions have been raised regarding the application of the apportionment formula for days worked out of state with respect to voluntary termination incentive payments received by non-residents employed in Delaware under Tax Ruling 82-7 dated December 10, 1982.

Tax Ruling 82-7 provides that voluntary termination incentive payments subject to Delaware tax may be included in the formula used for determining the portion of taxable compensation subject to apportionment for days worked out of state "during the last year of employment." For this purpose, a non-resident taxpayer employed in Delaware will compute in the usual manner on "Schedule W" the apportionment percentage to which he is entitled for the tax year in which the election is made to determine the amount of compensation to be excluded from Delaware taxable income for days worked out of state. The same apportionment percentage determined and allowable under Schedule W on the Delaware return for that year will likewise be applicable to the voluntary termination incentive payments received by such non-resident taxpayers in subsequent years.

For example, assume the following facts:

- (1) a non-resident taxpayer employed in Delaware with \$50,000 salary in 1982;
- (2) Election to receive a voluntary termination incentive payment (totaling \$24,000) payable in 24 monthly installments, of which \$2,000 was received in 1982; and
- (3) the apportionment percentage determined on Schedule W for days worked out of state in 1982 was 20%.

Under these assumptions \$10,400 (20% of total 1982 compensation of \$52,000) would be excluded from Delaware taxable income on the 1982 return. Similarly, in reporting the voluntary termination payment of \$12,000 received in 1983, \$2,400 (20% of \$12,000) would be excludible on the 1983 tax return, and a like percentage on the 1984 return.


Robert W. Chastant
Director of Revenue

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RRS/mrs